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An Investigation Into Criteria Commonly Used  
by the FAA to Grant Relief to Part 135  
Operators Under FAR sections: 135.213,  
135.219, and/or 135.225

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April 2002

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# An Investigation Into Criteria Commonly Used by the FAA to Grant Relief to Part 135 Operators Under FAR sections: 135.213, 135.219, and/or 135.225

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## **Executive Summary**

The objective of this study was to determine the criteria commonly used by the FAA to grant waivers, exemptions, or deviations to FAR (Federal Aviation Regulations) Part 135, Sections 135.213, 135.219, and 135.225 and the potential impact on Flight Information Services Data Link (FISDL) implementation.

The regulations examined address the requirements for the use of weather reports or forecasts when conducting operations under FAR Part 135.

- Section 135.213 specifies the required source and observation location for the weather reports and forecasts.
- Section 135.219 specifies the requirement for obtaining destination airport weather forecast information prior to takeoff that indicates that the weather conditions at the estimated time of arrival will be at or above authorized instrument flight rules (IFR) landing minimums.
- Section 135.225 specifies the weather observation and forecast requirements relative to the specified IFR takeoff, approach and landing minimums.

There are two methods for obtaining relief from these regulations. First, any person affected by the regulation may petition the Administrator to issue, amend, or repeal a rule or may petition for an exemption. In addition, certain FAR sections allow a second method whereby the Administrator can issue a Certificate of Waiver, a Certificate of Authorization, or operations specifications, which authorize a deviation. This regulatory flexibility is available to the Administrator when the specific regulatory section stipulates that it is available.

The two primary criteria that are used by the FAA in evaluating a petition for rulemaking, a change to an existing rule, or an exemption to an existing rule are:

- First, a compelling argument, including relevant technical and scientific data, must be presented as to why the proposed action would be in the public interest.
- Second, the reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which an exemption is requested.

An analysis of the results of requested exemptions for the three FAR regulatory sections that were examined indicates that it is extremely difficult to obtain relief from these regulations via a rulemaking or exemption request.

It is much more likely that relief can be obtained within the regulations through an approved procedure that is contained within the operations specifications. This is granted "when, after investigation by the U.S. National Weather Service and the certificate-holding district office, it is found that the standards of safety for that operation would allow the deviation from this paragraph for a particular operation for which an air carrier operating certificate or operating certificate has been issued."

Based on the results of the study reported herein, in order for FISDL current and forecast weather information to be acceptable to the FAA, the source of the FISDL data must be obtained from the National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator. Current weather conditions can be obtained from an Automatic Surface Observing System (ASOS), Automated Weather Observing System (AWOS), or Supplemental Aviation Weather Reporting Service. The weather data must originate from the specific airport under consideration, or a deviation to Section 135.213 or 225 is required in the operator's operations specification.

As it is written, there appears to be no flexibility under Section 135.219 that would allow an operator to obtain a deviation to that rule. The rule states that "No person may take off an aircraft under IFR or begin an IFR or over-the-top operation unless the latest weather reports or forecasts, or any combination of them, indicate that weather conditions at the estimated time of arrival at the next airport of intended landing will be at or above authorized IFR landing minimums." The only possible flexibility seems to be in the interpretation of the phrase ",or any combination of them,". The way this is interpreted in the operations specifications for Part 135 operators interviewed for this study is that the weather report must be the latest weather measured at the destination airport and that the forecast can be an area forecast which includes the location of the destination airport. This regulation can then be satisfied if the pilot obtains the latest weather from an ASOS/AWOS at the destination airport and obtains the latest area forecast that covers the area including the destination airport.

The use of FISDL should result in a substantial improvement in providing the pilot with the latest weather information along the route and at the destination airport, if that airport has an ASOS/AWOS. For those airports without automated weather reporting and without an authorized weather observer, FISDL would provide the pilot with up-to-date weather information for the area and the surrounding airports with weather reporting. However, under the current regulations, an approach into the non-weather reporting airport can still only be conducted: (1) If there are visual meteorological conditions (VMC) from the minimum enroute altitude (MEA) to the destination airport that will allow a VFR approach; (2) If the Part 135 operator's operations specifications contain a deviation to Section 135.213 or 225 that allow the weather report from a nearby airport to be used for IFR operations at the destination airport.



# 1 Background

The FAA is implementing datalinked Flight Information Services (FIS) designed to provide cockpit access of timely, in-flight updates of dynamically changing weather and airspace conditions. It is anticipated that the provision of this data will positively impact pilot decision making and safety of flight operations, and thus could result in relief to existing applicable FAR regulations.

The objective of the study that is reported herein was to determine the criteria commonly used by the FAA to grant waivers, exemptions, or deviations to FAR Part 135, Sections 135.213, 135.219, and 135.225.

FAR Part 135 is contained within Title 14 of the Code of Federal Regulations (14 CFR). The Code of Federal Regulations (CFR) catalogs rules adopted by the US Federal Government. The CFR divides the rules into 50 titles covering all areas subject to Federal regulation. Title 14 contains rules related to aviation and space. Part 135 is the Operating Requirements for "Commuter and On Demand Operations and Rules Governing Persons On Board Such Aircraft". The rules for FAR Part 135, Sections 135.213, 135.219, and 135.225 are as follows:

## 1.1 FAR Part 135.213 Weather reports and forecasts

(a) Whenever a person operating an aircraft under this part is required to use a weather report or forecast, that person shall use that of the U.S. National Weather Service (NWS), a source approved by the U.S. National Weather Service or a source approved by the Administrator. However, for operations under VFR, the pilot in command may, if such a report is not available, use weather information based on that pilot's own observations or on those of other persons competent to supply appropriate observations.

(b) For the purposes of paragraph (a) of this section, weather observations made and furnished to pilots to conduct IFR operations at an airport must be taken at the airport where those IFR operations are conducted, unless the Administrator issues operations specifications allowing the use of weather observations taken at a location not at the airport where the IFR operations are conducted. The Administrator issues such operations specifications when, after investigation by the U.S. National Weather Service and the certificate-holding district office, it is found that the standards of safety for that operation would allow the deviation from this paragraph for a particular operation for which an air carrier operating certificate or operating certificate has been issued.

Ref: [Doc. No. 16097, 43 FR 46783, Oct. 10, 1978, as amended by Amdt. 135-60, 61 FR 2616, Jan. 26, 1996]

## 1.2 FAR Part 135.219 IFR: Destination airport weather minimums

No person may take off an aircraft under IFR or begin an IFR or over-the-top operation unless the latest weather reports or forecasts, or any combination of them, indicate that weather conditions at the estimated time of arrival at the next airport of intended landing will be at or above authorized IFR landing minimums.

### **1.3 FAR Part 135.225 IFR: Takeoff, approach and landing minimums**

- (a) No pilot may begin an instrument approach procedure to an airport unless --
  - (1) That airport has a weather reporting facility operated by the U.S. National Weather Service, a source approved by U.S. National Weather Service, or a source approved by the Administrator; and
  - (2) The latest weather report issued by that weather reporting facility indicates that weather conditions are at or above the authorized IFR landing minimums for that airport.
- (b) No pilot may begin the final approach segment of an instrument approach procedure to an airport unless the latest weather reported by the facility described in paragraph (a)(1) of this section indicates that weather conditions are at or above the authorized IFR landing minimums for that procedure.
- (c) If a pilot has begun the final approach segment of an instrument approach to an airport under paragraph (b) of this section and a later weather report indicating below minimum conditions is received after the aircraft is --
  - (1) On an ILS final approach and has passed the final approach fix; or
  - (2) On an ASR or PAR final approach and has been turned over to the final approach controller; or
  - (3) On a final approach using a VOR, NDB, or comparable approach procedure; and the aircraft --
    - (i) Has passed the appropriate facility or final approach fix; or
    - (ii) Where a final approach fix is not specified, has completed the procedure turn and is established inbound toward the airport on the final approach course within the distance prescribed in the procedure; the approach may be continued and a landing made if the pilot finds, upon reaching the authorized MDA or DH, that actual weather conditions are at least equal to the minimums prescribed for the procedure.
- (d) The MDA or DH and visibility landing minimums prescribed in part 97 of this chapter or in the operator's operations specifications are increased by 100 feet and 1/2 mile respectively, but not to exceed the ceiling and visibility minimums for that airport when used as an alternate airport, for each pilot in command of a turbine-powered airplane who has not served at least 100 hours as pilot in command in that type of airplane.
- (e) Each pilot making an IFR take-off or approach and landing at a military or foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, no pilot may, at that airport --
  - (1) Take off under IFR when the visibility is less than 1 mile; or
  - (2) Make an instrument approach when the visibility is less than 1/2 mile.
- (f) If takeoff minimums are specified in part 97 of this chapter for the take-off airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than the takeoff minimums specified for the takeoff airport in part 97 or in the certificate holder's operations specifications.

(g) Except as provided in paragraph (h) of this section, if takeoff minimums are not prescribed in part 97 of this chapter for the takeoff airport, no pilot may takeoff an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than that prescribed in part 91 of this chapter or in the certificate holder's operations specifications.

(h) At airports where straight-in instrument approach procedures are authorized, a pilot may takeoff an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are equal to or better than the lowest straight-in landing minimums, unless otherwise restricted, if --

- (1) The wind direction and velocity at the time of takeoff are such that a straight-in instrument approach can be made to the runway served by the instrument approach;
- (2) The associated ground facilities upon which the landing minimums are predicated and the related airborne equipment are in normal operation; and
- (3) The certificate holder has been approved for such operations.

## **2 Regulatory Relief**

### **2.1 Types of Relief**

The regulations governing the rulemaking process are found in Part 11 of Title 14 of the Code of Federal Regulations (CFR). In this document it is stated that any person may petition the Administrator to issue, amend, or repeal a rule. It is also stated that any person affected by a regulation in 14 CFR may also petition for an exemption from any rule issued by the Federal Aviation Administration under its statutory authority.

If the specific regulatory section does not stipulate that a deviation, waiver, or authorization may be granted or issued, compliance with the regulation is mandatory. In these cases, the only method of obtaining relief from the regulation is through the rulemaking procedure or the exemption process.

Certain FAR sections allow the Administrator to issue a Certificate of Waiver, a Certificate of Authorization, or operations specifications, which authorize a deviation. These actions permit a person or an organization to either deviate from a specific regulation or comply with special alternative provisions, conditions, or limitations. This regulatory flexibility is available to the Administrator when the specific regulatory section stipulates that it is available. There are three options available, which are referred to as follows:

- A. Deviation -- When a regulatory section contains phrases such as "unless otherwise authorized by the Administrator"; "the Administrator may..."; "if the Administrator finds ..."; "the Administrator may authorize..."; "the Administrator allows a deviation..."; "notwithstanding the Administrator may issue operations specifications..."; or other similar words, the regulatory flexibility is referred to as a deviation.
- B. Waiver -- When the regulatory section contains phrases such as "the Administrator may issue a certificate of waiver..."; in accordance with the terms

of a certificate of waiver issued by the Administrator"; or other similar words, the regulatory flexibility is referred to as a waiver.

C. Authorization -- When the regulatory section contains words such as "in violation of the terms of an authorization issued under this section"; "unless a certificate of authorization..."; or other similar words, the regulatory flexibility is referred to as an authorization.

## **2.2 Process for Obtaining Relief by Rulemaking or Exemption**

### **2.2.1 Rulemaking**

Petitions for rulemaking must include the following information:

- Name and mailing address and other contact information such as a fax number, telephone number, or e-mail address.
- An explanation of the proposed action and its purpose.
- The language proposed for a new rule or the citation (such as 135.143(c)(2)) and proposed language for a rule that the petitioner would like to amend, or the citation and language the petitioner would like to remove from a current rule.
- An explanation of why the proposed action would be in the public interest.
- Information and arguments that support the proposed action, including relevant technical and scientific data available to the petitioner.
- Any specific facts or circumstances that support or demonstrate the need for the proposed action.

In the process of considering the petition, the FAA may ask for information or data available to the petitioner about the following:

- The costs and benefits of the proposed action to society in general and identifiable groups within society in particular.
- The regulatory burden of the proposed action on small businesses, small organizations, small governmental jurisdictions, and Indian tribes.
- The recordkeeping and reporting burdens of the proposed action and whom the burdens would affect.
- The effect of the proposed action on the quality of the natural and social environments.

A petition for rulemaking or a petition for exemption should be submitted as follows: For paper submissions the original signed copy of the petition for rulemaking or exemption should be sent to the U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Room PL 401, Washington, DC 20591-0001. For electronic submissions the petition to the FAA should be sent through the Internet using the Docket Management System web site at this Internet address: [dms.dot.gov/submit/](https://dms.dot.gov/submit/).

### **2.2.2 Exemption**

A petition for exemption should be submitted to FAA as soon as it is known that an exemption is needed (at least 120 days in advance). The petition for exemption must include the following information:

- Name and mailing address and other contact information such as a fax number, telephone number, or e-mail address;

- The specific section or sections of 14 CFR from which an exemption is requested;
- The extent of relief requested, and the reason for seeking the relief;
- The reasons why granting the request would be in the public interest; that is, how it would benefit the public as a whole;
- The reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which an exemption is requested;
- A summary that the FAA can publish in the Federal Register, stating:
  - (1) The rule from which the exemption is requested; and
  - (2) A brief description of the nature of the exemption requested;
- Any additional information, views or arguments available to support the request; and
- If the petitioner wants to exercise the privileges of the requested exemption outside the United States, the reason why that is required.

### 2.2.3 Reconsideration

The petitioner may request the FAA to reconsider a petition that was denied. The request must be submitted to the address to which the original petition was sent, and FAA must receive it within 60 days after the denial was issued.

Petitions for Reconsideration must show the following:

- That the petitioner has a significant additional fact, and why that fact was not presented in the original petition;
- That the FAA made an important factual error in the denial of the original petition; or
- That the FAA did not correctly interpret a law, regulation, or precedent.

## 2.3 Process for Obtaining Relief by Deviation, Waiver, or Authorization

### 2.3.1 Deviations

When a regulatory section, such as FAR Part 135.213, stipulates that a deviation may be permitted, any person or organization may apply for a deviation. Deviations may be granted and issued to operators conducting operations under FAR Parts 121, 129, or 135. To apply for a deviation, an operator must submit a specific request to the FAA. The application must be made by a letter that identifies the specific regulatory sections from which a deviation is requested. The letter and attachments, if appropriate, must contain the specific reasons the deviation is requested, information to show that an equivalent level of safety will be maintained, and any other information that the FAA may require. Deviations requested by operators conducting operations under FAR Parts 121, 129, and 135 must be authorized for use by operations specifications. Approval, denial, and reconsideration procedures for processing deviation requests shall be the same as the procedures for processing, issuing, or amending operations specifications. District office recordkeeping requirements for each deviation are the same as operations specifications recordkeeping requirements.

If adequately justified, deviations may also be granted for military contract operations or to perform an unanticipated, temporary emergency operation. Operations under a long-term contract to provide certain types of protection to the public; such as rescue, fire fighting, or security; cannot be classified as an unanticipated, temporary action that would qualify under this provision.

### 2.3.2 Waivers and Authorizations

When a regulatory section stipulates that a waiver or authorization is permitted, any person may apply for a certificate of waiver or a certificate of authorization. FAA Form 7711-2, "Application for Certificate of Waiver or Authorization," must be prepared and signed by the applicant and delivered or mailed to the appropriate FAA regional or district office for processing. A Certificate of Waiver or Authorization shall not be issued for any operation conducted under FAR Parts 121, 125, 129, or 135. Requests for a deviation from these Parts must be requested and processed as described in Section 2.3.1 of this report.

## 2.4 Applicability

### 2.4.1 FAR Part 135.213

In Part 135.213 (Section 1.1 of this report) the wording that is presented in bold type below indicates that a request for a deviation would be the most appropriate method to obtain relief from this regulation.

(a) Whenever a person operating an aircraft under this part is required to use a weather report or forecast, that person shall use that of the U.S. National Weather Service, a source approved by the U.S. National Weather Service, **or a source approved by the Administrator**. However, for operations under VFR, the pilot in command may, if such a report is not available, use weather information based on that pilot's own observations or on those of other persons competent to supply appropriate observations.

(b) For the purposes of paragraph (a) of this section, weather observations made and furnished to pilots to conduct IFR operations at an airport must be taken at the airport where those IFR operations are conducted, **unless the Administrator issues operations specifications allowing the use of weather observations taken at a location not at the airport where the IFR operations are conducted**. The Administrator issues such operations specifications when, after investigation by the U.S. National Weather Service and the certificate-holding district office, it is found that the standards of safety for that operation would allow the deviation from this paragraph for a particular operation for which an air carrier operating certificate or operating certificate has been issued.

The deviation, granted by the air carrier certificate holder's principal operations inspector (POI) would be included in the certificate holder's operations specifications. Each request must be evaluated individually by the POI and the NWS because the situation can be very terrain and local weather experience dependent. In some areas of the country the weather at a nearby location may adequately represent what can be expected at the

location under consideration. In other areas of the country the weather conditions may often vary widely over very short distances.

This regulation was discussed with Mr. Bob Wright, Manager of FAA's General Aviation Division, AFS 800, and manager in the past of various FAA offices responsible for development and implementation of rule-making policies related to FAR Part 91 and Part 135. Mr. Wright, pointed out part (b) of Section 135.213, saying that there is a process for a Part 135 operator to obtain authorization to file an IFR flight plan using weather information obtained from locations other than the destination airport. This would only be allowed if the destination airport cannot provide the weather information required for filing an IFR flight plan. Further, this is only authorized if the POI for the Part 135 operator and the national weather service agree. Mr. Wright said that part (b) of Section 135.213 enables the POI to authorize such operations through appropriate provisions within the operator's operations specification.

#### 2.4.2 FAR Part 135.219

The wording in Part 135.219 (Section 1.2 of this report) does not indicate that any relief would be allowed except by a change to the rule (as described in Section 2.2.1 of this report) or through a petition for an exemption (as described in Section 2.2.2 of this report). The only possible flexibility seems to be in the interpretation of the phrase "the latest weather reports or forecasts, **or any combination of them**, indicate that weather conditions at the estimated time of arrival at the next airport of intended landing will be at or above authorized IFR landing minimums." The way this is interpreted in the operations specifications for Part 135 operators interviewed for this study is that the weather report must be the latest weather measured at the destination airport and that the forecast can be an area forecast which includes the location of the destination airport. This regulation can then be satisfied if the pilot obtains the latest weather from an ASOS/AWOS at the destination airport and obtains the latest area forecast that covers the area including the destination airport.

If the destination airport does not have any capability for the required weather reporting and the area weather is IMC, a Part 135 operator cannot file for an IFR clearance to that airport and make an IFR approach into the airport unless their operations specifications contain a deviation to Section 135.213 or 225 that allow the weather report from a nearby airport to be used. Hilton Head Airport was cited as an example of such an airport without any weather reporting capability. One of the Part 135 operators interviewed for this study did not have a deviation in their operations specifications allowing the use of weather reported from another airport for operations into Hilton Head. As such, that operator could only file for and land at a nearby airport with weather reporting, such as Savannah, and only if the weather at Savannah was above IFR minimums. Another Part 135 operator that was interviewed for this study had many approved deviations in their operations specifications that allowed routine IFR operations into specific airports around the U.S. based on the use of weather reported from a specific nearby airport.

### 2.4.3 FAR Part 135.225

In Part 135.225 (Section 1.3 of this report) there is some wording that indicates that relief may be possible through a request for a deviation. The paragraphs from Part 135.225 that contain the applicable wording presented in bold type are shown below:

- (a) No pilot may begin an instrument approach procedure to an airport unless --
  - (1) That airport has a weather reporting facility operated by the U.S. National Weather Service, a source approved by U.S. National Weather Service, **or a source approved by the Administrator**; and
  - (2) The latest weather report issued by that weather reporting facility indicates that weather conditions are at or above the authorized IFR landing minimums for that airport.
- (f) If takeoff minimums are specified in part 97 of this chapter for the take-off airport, no pilot may take off an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than the takeoff minimums specified for the takeoff airport in part 97 **or in the certificate holder's operations specifications**.
- (g) Except as provided in paragraph (h) of this section, if takeoff minimums are not prescribed in part 97 of this chapter for the takeoff airport, no pilot may takeoff an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than that prescribed in part 91 of this chapter **or in the certificate holder's operations specifications**.
- (h) At airports where straight-in instrument approach procedures are authorized, a pilot may takeoff an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are equal to or better than the lowest straight-in landing minimums, unless otherwise restricted, if --
  - (1) The wind direction and velocity at the time of takeoff are such that a straight-in instrument approach can be made to the runway served by the instrument approach;
  - (2) The associated ground facilities upon which the landing minimums are predicated and the related airborne equipment are in normal operation; and
  - (3) The **certificate holder has been approved for such operations**.

### 2.5 Summary of Literature Research

The two primary criteria that are used by the FAA in evaluating a petition for rulemaking, a change to an existing rule, or an exemption to an existing rule are evident in the list of information that is requested from the petitioner.

- First, a compelling argument, including relevant technical and scientific data, must be presented as to why the proposed action would be in the public interest.
- Second, the reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which an exemption is requested.

A literature search using DOTBOT-NTL: The U.S. Department of Transportation Web Index was conducted. Copies of historical documents for exemption requests for FAR Part 135.213, 219, and 225 obtained via this search are included in Appendix A of this report. (Deviations are incorporated in the operator's operations specifications and are not



documented in the same manner as the formal exemption request procedure.) The exemption request records were analyzed in order to determine the reasons given by the FAA for either granting or denying the request. In the literature search, eight requests (in some cases resubmitted requests for reconsideration or renewal by the same petitioner) were identified over the past 13 years. Three of these exemption requests were granted, two were partially granted, and three were denied. In analyzing the results of the exemption requests it appears extremely difficult to adequately justify a request for an exemption from FAR Part 135.213, 219, or 225. The only requests that were approved involved minimal relief from the regulations.

One case, petitioned by the Helicopter Association International (HAI) and the Association of Air Medical Services (AAMS) and involving helicopter Emergency Medical Services (EMS) operations, the requested exemptions from Sections 135.213(b), 135.219, 135.225(a)(1) and (2), 135.225(f), and 135.225(g) were denied. The only requested exemption that was granted was from Section 135.213(a) "to the limited extent necessary to permit helicopter EMS departures, under IFR in weather that is at or above VFR minimums, from airports or heliports at which a weather report is not available from the US National Weather Service, a source approved by the NWS, or a source approved by the Administrator". And even for this granted exemption it was made subject to many limitations:

1. Only departures were authorized, instrument approach procedures were not authorized.
2. Use of the exemption was authorized only at airports or heliports at which a weather report was not available from the NWS, a source approved by the NWS, or a source approved by the Administrator. IFR departures at such airports or heliports were authorized only if these other sources were unavailable and after the pilot in command of the affected flight, or another person competent to supply appropriate observations, determined that the weather conditions were at or above VFR minimums.
3. Departures under this exemption were only authorized for flights on which there was a patient who had a medical condition that requires, and is appropriate for, transportation by EMS helicopter.
4. Each pilot who conducts operations under this exemption must be IFR certificated, trained, qualified under Part 135, and current in the model helicopter being used.
5. Each helicopter operated under this exemption must be fully equipped and certified to conduct IFR operations under Part 135. The helicopter must be equipped with an approved and operable radar altimeter, and either an approved and operable weather radar or approved and operable lightning detection equipment.
6. Before conducting any operation under this exemption, each certificate holder must submit to, and have approved by the FAA Principal Operations Inspector (POI) assigned to the certificate holder, an amendment to the certificate holders approved training program. The amendment must include, as a minimum, the items proposed by the Helicopter Association International and the Association of Air Medical Services in the appropriate ground school course.

In another case, petitioned by Bankair, Inc, an exemption was granted to Section 135.225(e)(1). This exemption was limited to operations by the petitioner's pilots to allow them to operate their aircraft from Myrtle Beach Air Force Base (MBAFB) and Beaufort Marine Corps Air Station (BMCAS) using takeoff visibility minimums, subject to the approval of the appropriate military authority, which were less than 1 mile. This allowed Bankair aircraft to takeoff when the visibility was equal to or greater than the landing visibility minimum (1/2 mile) already established for these airfields.

In a case petitioned by Mercy Medical Center, Redding (MMCR), CA, an exemption from Section 135.213(a) was requested to permit MMCR to conduct EMS departures in fixed-wing aircraft under IFR in weather that is at or above VFR minimums from airports at which a weather report is not available from the NWS, a source approved by the NWS, or a source approved by the Administrator. The FAA denied this petition on the premise that MMCR failed to show how the proposed exemption for fixed-wing aircraft (as contrasted with the helicopter operations approved for the HAI and AAMS request discussed above) would provide a level of safety that was equivalent to the affected section. Accordingly they found "that a grant of exemption would not be in the public interest".

For a case petitioned twice by Life Lion Aeromedical Service (LLAS) of Hershey, PA, an exemption was requested from Section 135.213(a) and (b) was requested in order to conduct IFR departures during patient transport flights from 13 airports in Pennsylvania at which a weather report is not available from the NWS, a source approved by the NWS, or a source approved by the Administrator. The FAA denied these petitions based on other denials citing past air carrier operating experience and an examination of several aircraft accidents that had occurred in marginal weather conditions. The FAA stated that it would be inconsistent and imprudent for the FAA to allow Part 121 or Part 135 operators to initiate takeoffs or instrument approaches, or permit them to "look-see," without those operators having the latest reported weather. Further, the FAA stated that it considers the NWS to be the primary authority in weather matters and that other sources that are not "approved by the NWS" cannot be used for air carrier IFR or IMC operations under Part 121 or Part 135. These petitions were denied on the basis that the FAA considered them to be not in the public interest.

### **3 Impact of FISDL**

Based on the results of the study reported herein, in order for FISDL current and forecast weather information to be acceptable to the FAA, the source of the FISDL data must be obtained from the National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator. Current weather conditions can be obtained from an Automatic Surface Observing System (ASOS), Automated Weather Observing System (AWOS), or Supplemental Aviation Weather Reporting Service. The weather data must originate from the specific airport under consideration, or a deviation to Section 135.213 or Section 135.225 is required in the operator's operations specification. There is currently no flexibility for obtaining a deviation under Section 135.219. The Direct User Access Terminal System (DUATS) provides a method approved by the FAA to demonstrate satisfaction with these regulations.

The use of FISDL should result in a substantial improvement in providing the pilot with the latest weather information along the route and at the destination airport, if that airport has an ASOS/AWOS. For those airports without automated weather reporting and without an authorized weather observer, FISDL would provide the pilot with up-to-date weather information for the area and the surrounding airports with weather reporting. However, under the current regulations, an approach into the non-weather reporting airport can still only be conducted: (1) If there are visual meteorological conditions (VMC) from the minimum enroute altitude (MEA) to the destination airport that will allow a VFR approach. (2) If the Part 135 operator's operations specifications contain a deviation to Section 135.213 or 225 that allow the weather report from a nearby airport to be used for IFR operations at the destination airport.

## **Appendix**

### **Exemption No. 6781 - Mercy Medical Center Redding**

Exemption No. 6781  
Regulatory Docket No. 29075

June 2, 1998

Mr. Richard T. Robertson  
Director of Operations  
Mercy Medical Center Redding  
2175 Rosaline Avenue  
Redding, California 96049-6009

Dear Mr. Robertson:

By letter dated November 21, 1997, you petitioned the Federal Aviation Administration (FAA) on behalf of Mercy Medical Center Redding (MMCR) for an exemption from § 135.213(a) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to permit MMCR to conduct emergency medical system (EMS) departures in fixed-wing aircraft under instrument flight rules (IFR) in weather that is at or above visual flight rules (VFR) minimums from airports at which a weather report is not available from the U.S. National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator.

In your petition, you state that Partial Grant of Exemption No. 6175, as amended, permits the type of operation in fixed-wing aircraft that you propose. Partial Grant of Exemption No. 6175 was issued to the members of both the Helicopter Association International (HAI) and the Association of Air Medical Services (AAMS) who conduct EMS helicopter operations under part 135.

According to your petition, the combination of weather, icing conditions enroute, and terrain, coupled with the large size of your coverage area often precludes the use of helicopters that are capable of IFR operations. As a result, you state that there are no helicopter operators conducting IFR operations in your region. For these reasons, you contend that there is adequate reason to grant your fixed-wing service the same ability to transition safely into the IFR system that EMS helicopters currently enjoy.

Partial Grant of Exemption No. 6175, as amended, (copy enclosed), states that there have been previous petitions for exemption that would grant relief to permit fixed wing airplanes to depart from airports at which a weather report is not available from the NWS, a source approved by the NWS, or a source approved by the Administrator, and that these petitions were denied. These previous Denials of Exemption from § 135.213(a),

referenced a National Transportation Safety Board (NTSB) study, which found that approach and landing accidents were the largest single cause of air carrier passenger fatalities and also represented a significant percentage of general aviation fatalities. Of 259 air carrier approach and landing accidents, 62 occurred when the weather conditions were reported to include ceilings of less than 1,200 feet and visibility of 3 miles. Of these 62 accidents, 46 involved ceilings of less than 600 feet and visibility of less than 1/2 mile. In their petition for exemption, HAA and AAMS, noted that the NTSB study did not include data on helicopter IFR operations.

In contrast to previous Denials of Exemptions, the FAA found, in issuing Partial Grant of Exemption No. 6175, that relief from § 135.213(a) to permit helicopters to depart without an approved weather reporting source, subject to certain conditions and limitations, would not reduce the level of safety that is provided currently by § 135.213(a). Similarly, the FAA found that an exemption from § 135.213(a) that authorizes IFR departures at airports that do not have an approved weather reporting source for a limited number of helicopter EMS flights would be in the public interest. The FAA also found that the affected EMS helicopter operators are unique from the general class of regulated persons who conduct operations under part 135. Furthermore, the FAA found that there are helicopters such as the Bell 222, and Sikorsky 76, that are capable of operations in icing conditions, which may be encountered in IFR operations.

A summary of your petition was published in the Federal Register on February 3, 1998, (63 FR 5601). No comments were received.

Having reviewed your reasons for requesting an exemption, I find that the reasons stated by the FAA, in granting relief for only EMS helicopter operations, apply to the situation you present. I find that you have failed to show how the proposed exemption would provide a level of safety that is equivalent to the affected section. Accordingly, I find that a grant of exemption would not be in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator (14 CFR § 11.53), your petition for an exemption from 14 CFR § 135.213(a) is hereby denied.

Sincerely,

/S/ Thomas E. Stuckey  
Acting Director, Flight Standards Service

## **Exemption No. 6077 - Life Lion Aeromedical Service**

May 3, 1995

Exemption No. 6077  
Regulatory Docket No. 27345

Mr. Rick O'Neal  
Director of Operations  
Life Lion Aeromedical Service  
The Milton S. Hershey Medical Center  
Hershey, PA 17033

Dear Mr. O'Neal:

By letter dated February 27, 1995, you petitioned on behalf of Life Lion Aeromedical Service (LLAS) for an exemption from Title 14, Code of Federal Regulations (CFR) 135.213(a) and (b) to the extent necessary to conduct instrument flight rule departures during patient transport flights from 13 airports in Pennsylvania when weather observations from the U.S. National Weather Service (NWS), or a source approved by the NWS, or a source approved by the Administrator are not available.

The Federal Aviation Administration (FAA) previously issued denials of exemption in circumstances similar in all material respects to the circumstances presented in your petition. In Denial of Exemption No. 5239, a copy of which is enclosed, the FAA states that aircraft operating under the instrument flight rules of 14 CFR part 91 are allowed to take off and to execute an instrument approach without the benefit of having received the latest weather report for that airport. In the denial, the FAA found that this "look-see" procedure, authorized during those noncommon carriage operations, is not permitted during air carrier operations such as those under which LLAS operates, since they require a higher level of safety.

In Denial of Exemption No. 4835, a copy of which is enclosed, the FAA found that, based on past air carrier operating experience and an examination of several aircraft accidents that had occurred in marginal weather conditions, it would be inconsistent and imprudent for the FAA to allow 14 CFR part 121 and 14 CFR part 135 operators to initiate takeoffs or instrument approaches, or permit them to "look-see," without those operators having the latest reported weather. The FAA also stated that it considers the NWS to be the primary authority in weather matters and that other sources that are not "approved by the NWS" cannot be used for air carrier instrument flight rules or instrument meteorological conditions operations under part 121 or part 135.

In Denial of Exemption No. 4773, a copy of which is enclosed, the FAA also found that statistics on accident rates for emergency medical service aviation operators opened the

question whether the urgency expressed in saving lives of accident victims, by reducing the time en route to a medical facility, may actually produce an attitude or behaviors that result in less safety under certain circumstances.

Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from those presented by the petitioners in the attached Denials of Exemption. In addition, I have determined that the reasons stated by the FAA for denying the attached exemptions also apply to the situation you present and that your request does not materially differ from your previous petition dated June 14, 1993. Accordingly, I find that a grant of exemption would not be in the public interest. Therefore, pursuant to the authority contained in Sections 313(a) and 601(c) of the Federal Aviation Act of 1958, as amended, delegated to me by the Administrator (14 CFR 11.53), your petition for an exemption from § 135.213(a) and (b) is hereby denied.

Sincerely,

/s/ Thomas C. Accardi  
Director, Flight Standards Service

## **Exemption No. 5845 - Life Lion Aeromedical Service**

February 16, 1994

Exemption No.: 5845  
Docket No.: 27345

Mr. Rick O'Neal  
Director of Operations  
Life Lion Aeromedical Service  
P.O. Box 850  
Hershey, PA 17033

Dear Mr. O'Neal:

By letter dated June 14, 1993, you petitioned for an exemption from § 135.213 of the Federal Aviation Regulations to the extent necessary to conduct instrument flight rule (IFR) departures during patient transport flights from 13 airports in Pennsylvania when weather observations from the U.S. National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator are not available.

The Federal Aviation Administration previously has issued denials of exemption in circumstances similar in all material respects to those presented in your petition. In Denials of Exemption Nos. 4773, 4835, and 5239 (copies of which were forwarded to you as enclosures to my October 26, 1993, letter), the FAA found that, based on past air carrier operating experience in marginal weather conditions, it would be inconsistent and clearly imprudent for the FAA to allow Part 135 operators to initiate takeoffs without those operators having the latest reported weather.

The FAA considers that public safety requires an operator to comply with the FAR by obtaining current weather from the NWS, a source approved by the NWS, or a source approved by the Administrator. The FAA considers the NWS to be the primary authority in weather matters, and the NWS considers weather observations current only as long as a certified weather observer is on duty to report significant changes.

The Federal Aviation Act of 1958, as amended, states that in providing standards, rules, and regulations and in issuing certificates, the FAA shall give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest. Although an IFR departure from an airport without an approved weather observer is a procedure authorized during Part 91 operations, it is not permitted during air carrier operations that require a higher level of safety.

Your response of November 8, 1993, to the FAA's request for additional facts and circumstances that are significantly different from the previous denials of exemption is correct in asserting that Denials of Exemption Nos. 4773, 4835, and 5239 were based on



requests for significantly broader relief than the relief that you request. However, you failed to show that your specific request to conduct IFR departures during air carrier operations from airports where NWS or other approved weather reports are not available was in any way different from those portions of the aforementioned petitions for exemption that requested similar relief.

I have reviewed your reasons for requesting an exemption, including the additional information that you have submitted. Your request for relief is indeed more limited than that requested in the previously mentioned petitions for exemption. Although your petition requests relief from limitations only associated with takeoffs, the FAA believes that any operation in marginal weather without an approved current weather observation creates a level of risk inconsistent with air carrier safety standards. Consequently, the reasons that you present do not differ materially from those presented by the petitioners in the previously mentioned denials of exemption.

Accordingly, I find that a grant of exemption would not be in the public interest. Therefore, pursuant to the authority contained in Sections 313(a) and 601(c) of the Federal Aviation Act of 1958 as amended, delegated to me by the Administrator (14 CFR 11.53), your petition for an exemption from § 135.213 of the Federal Aviation Regulations is hereby denied.

Sincerely,

/s/ William J. White  
Acting Director, Flight Standards Service

**Exemption No. 6175 - Helicopter Association Int'l and Association of Air Medical Services**

Exemption No. 6175  
Regulatory Docket No. 27491

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC 20591

\* \* \* \* \*  
In the matter of the petition of  
HELICOPTER ASSOCIATION INTERNATIONAL  
and  
ASSOCIATION OF AIR MEDICAL SERVICES  
for an exemption from §§ 135.213(a)  
and b, 135.219, and 135.225(a) (1), (a) (2),  
(f), and (g) of Title 14,  
Code of Federal Regulations  
\* \* \* \* \*

PARTIAL GRANT OF EXEMPTION

By letters dated July 1, and August 30, Mr. Frank L. Jensen, Jr., President, Helicopter Association International (HAI), 1635 Prince Street, Alexandria, Virginia 22314-2818, and Ms. Nina Merrill, Executive Director, Association of Air Medical Services (AAMS), 35 South Raymond Avenue, Suite 205 Pasadena, California 91105, and September 5, 1995, by Nina Merrill, AAMS, petitioned the Federal Aviation Administration (FAA) for an exemption from §§ 135.213(a) and (b), 135.219, and 135.225(a) (1), (a) (2), (f), and (g) of Title 14, Code of Federal Regulations. The petition, on behalf of certificate holders that conduct emergency medical service (EMS) operations, would authorize these EMS operators to perform instrument flight rules (IFR) departures and to perform IFR instrument approach procedures (IAP) at airports and or heliports that do not have an approved weather reporting source.

The petitioners request relief from the following sections:

Section 135.213(a) states, in pertinent part, that whenever a person operating an aircraft under part 135 is required to use a weather report or forecast, that person shall use that of the US National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator. However, for operations under visual flight rules (VFR), the pilot in command (PIC) may, if such a report is not available, use weather information based on that pilot's own observations or those of other persons competent to supply appropriate observations.

Section 135.213(b) states, in pertinent part, that for the purposes of paragraph (a) of this section, weather observations made and furnished to pilots to conduct IFR operations at an airport must be taken at the airport where those IFR operations are conducted, unless the Administrator issues operations specifications (OS) allowing the use of weather observations taken at a location not at the airport where the IFR operations are conducted. The Administrator issues such OS when, after investigation by the NWS and the FAA Flight Standards District Office (FSDO) charged with the overall inspection of the certificate holder, it is found that the standards of safety for that operation would allow the deviation from this paragraph for a particular operation for which an air taxi/commercial operator (ATCO) operating certificate has been issued.

Section 135.219 states that no person may take off an aircraft under IFR or begin an IFR or over-the-top operation unless the latest weather reports or forecasts, or any combination of them, indicate that weather conditions at the estimated time of arrival (ETA) at the next airport of intended landing will be at or above authorized IFR landing minimums.

Section 135.225(a) states that no pilot may begin an IAP to an airport unless-

- (1) That airport has a weather reporting facility operated by the NWS, a source approved by the NWS, or a source approved by the Administrator; and

- (2) The latest weather report issued by that weather reporting facility indicates that weather conditions are at or above the authorized IFR landing minimums for that airport.

Section 135.225(f) states that if takeoff minimums are specified in part 97 of this chapter for the takeoff airport, no pilot may takeoff an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than the takeoff minimums specified for the takeoff airport in part 97 or in the certificate holder's OS.

Section 135.225(g) states that except as provided in paragraph (h) of this section, if takeoff minimums are not prescribed in part 97 of this chapter for the takeoff airport, no pilot may takeoff an aircraft under IFR when the weather conditions reported by the facility described in paragraph (a)(1) of this section are less than that prescribed in part 91 of this chapter or in the certificate holder's OS.

The petitioners support their request with the following information:

HAI and AAMS state that the affected sections should be protecting EMS operators, but, instead are encouraging them to fly in marginal weather conditions under VFR because of the non availability of approved weather reporting sources.

HAI and AAMS believe that it is safer to file an IFR flight plan and to operate under IFR than to conduct flight operations under VFR in marginal visual meteorological conditions (VMC). The petitioners state that their member operators are committed to the safe and successful completion of their EMS flights. The petitioners state that operating in marginal VMC weather conditions has been the single most frequent cause factor in EMS aircraft accidents.

The petitioners state that the proposed exemption would increase the level of safety that is now provided by giving operators the ability to operate in accordance with IFR more often. This would minimize the need for marginal VFR flight operations. HAI and AAMS state that a fully trained crew, following proper IFR procedures, in a properly equipped aircraft, can only enhance safety.

The petitioners state that granting the proposed exemption in regard to IAPs would not promote improper descent below minimums, because weather reporting is not needed once

appropriate descent minimums are established for the specific IAP being used. HAI and AAMS state that the FAA's procedures for establishing IAPs, take into account the location of the nearest station for reporting barometric pressure readings when determining minimums. The petitioners state that a lack of weather reporting on the field warrants the establishment of higher minimums, but once established, the IAP can be used safely without local weather reporting. The petitioners propose that during an IAP the landing area would either be in sight at the missed approach point, or a missed approach would be performed.

HAI and AAMS state that Transport Canada regulations permit commercial operators to perform IFR IAPs based on area forecasts only. Transport Canada also permits alternate airport weather to be based on an area forecast by increasing the ceiling and visibility requirements for the alternate. The petitioners state that Transport Canada has not reported any problems with these regulations and that Canadian EMS operators have an excellent safety record under these regulations.

The petitioners state that the proposed exemption would be in the public interest. It would provide safer operations and increased EMS to more than 900 airports or heliports in the national airspace system that have approved IAPs, but do not have approved weather reporting sources. The proposed exemption would allow more patients to be moved safely and more efficiently within the parameters of the National Airspace and the Air Traffic Control System.

The petitioners point out the importance of time in saving lives. Emergency patient care is a continuum of discovery and treatment that includes the elements of: 1. dysfunction recognition, either anatomical or physiological, 2. assessment, 3. diagnosis, and 4. supportive interventions, all culminating in definitive medical and or surgical therapy.

The petitioners state that the continuum of critical and high-risk patients is usually time-dependent. The more time that elapses after the event, the less chance of recovery and survival, i.e., the "Golden Hour" of trauma. Non-trauma patients also must be treated within their disease specific "Golden Hour." Examples include the following conditions: cardiac patients who require thrombolysis, patients with dissecting aneurysms who

require immediate surgery, neonates who require access to special care units to survive, hemorrhaging patients who require aggressive resuscitation and restoration of blood volume, and others.

Time affects survival. Inefficient transport times expose patients to an environment where the ability to respond to life-threatening complications is seriously hampered.

When air medical services can significantly reduce the time to deliver critical or high-risk patients to definitive care, they should be employed. Examples may include, but are not limited to: trauma victims, high-risk mothers, neonates, cardiovascular patients, and hemorrhagic states.

The petitioners state that the transportation of patients under the proposed exemption would be limited. The decision to transport would be made by medical personnel based on the patient's condition. If the patient is being transferred from one hospital to another, a physician is involved in the decision to transfer. For patients whose illness or injury occurs outside of a hospital, "on scene" medical personnel have a variety of tools to help them identify the appropriate method of transport. These include numerical evaluation systems which clearly identify when a total score indicates air or ground transport.

HAI and AAMS have proposed several conditions and limitations that would be included in the proposed exemption:

1. Authorization is limited to Air Ambulance flights.
2. Authorization is limited to IFR equipped and certified helicopters, and pilots with a current § 135.297 check.
3. Authorization is limited to pilots who annually complete an approved course on weather observation and instrument operating procedures for locations without weather reporting. The course will include, as a minimum, the following:

Ground School Course Curriculum

- a. FAR Review.

This section will include a review of parts 1, 61, 91, and 135 as they apply to flight under IFR.

1.5 hours

b. Airmen Information Manual (AIM) Review.

A review of the AIM with special emphasis placed on IFR operations as covered in Chapter 5 of the AIM Glossary.

1.0 hours

c. Interpreting Weather and Weather Reports/Forecasts.

A review of weather phenomenon and systems, as well as weather services available to the pilot such as sequence reports, area and terminal forecasts, pilot reports, and in-flight advisories.

2.0 hours

d. Instrument Chart Review.

Covers instrument flight planning, instrument procedures at both controlled and uncontrolled airports, and a review of instrument charts.

2.0 hours

e. Cockpit Resource Management (CRM).

A review of key CRM concepts such as decision making and judgment, situational awareness, and management flight resources.

1.5 hours

f. Methods for Determining Weather Observations by the Pilot.

Covers methods for determining present visibility (measured or estimated), methods for

determining estimated ceilings, and the methods for weather observation used by the NWS.

2.0 hours

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A total of 10.0 hours

4. Flight planning will include selection of an alternate airport with in approved weather reporting source in accordance with § 135.213.

5. A radar altimeter is installed and operating.

6. Severe weather detection equipment such as, airborne weather radar or lightning detection, is installed and operating.

7. The crews are tested and checked on IFR operations at uncontrolled airports.

8. Helicopters will fly all approaches using Category A approach speeds.

9. After completing a landing at the destination airport that does not meet the weather requirements of the affected sections, the PIC is authorized to determine if the weather meets the take-off requirements of part 97 or the certificate holder's OS as applicable.

HAI and AAMS also state that safety has always been the underlying cause for establishing regulations governing flight. Throughout the regulatory process, the FAA, in accordance with the aviation industry, has developed a comprehensive set of regulations unparalleled throughout the world. Sound, effective rules are validated by thorough accident analysis. Where regulations are insufficient to provide appropriate levels of safety, these regulations are rewritten, until this goal is achieved.

The petitioners state that regulations are also reviewed and revised to take advantage of ever changing and advancing technologies. Thirty years of industry growth has elapsed since the first regulations governing flight were enacted. The industry has matured from navigating by lighted beacons to navigating by satellites.



The petitioners state that just as the FAA, aviation, and the industry have evolved, so has the NWS. The weather gathering and dissemination system originally established was designated to support airplanes at airports providing commercial service to the public. HAI and AAMS believe that the initial needs of airlines dictated that, with the resources available, the safest and most feasible locations for data collecting would be at the airport. These terminal reports were then collected and analyzed by a trained forecaster to develop an area forecast which could be used for terminals which did not have a weather observation station. The petitioners believe that the safest and most practical weather gathering and communications procedures available were established, and now form the basis for the current procedures.

HAI and AAMS state that once the initial regulatory framework was established, the problem was one of keeping up with the rapid growth of the industry, and this problem persists today. The petitioners state that it was not, and still is not, within the FAA's budget to support weather observation stations for every new terminal, general aviation airport, or hospital heliport. The petitioners state that driven by cost and system limitations, the FAA has tried to keep pace with the growth of the industry by modifying the regulations to allow exceptions for weather reporting through OS. The petitioners state that by controlling flight operations through OS, an equivalent level of safety is maintained, flexibility is provided for the operator, and an impossible burden is removed from the FAA.

The petitioners state that OS approvals for deviation from the FARs are common practice within the industry. HAI and AAMS state that presently three of the largest helicopter operators are certified to operate under IFR without weather reporting at certain sites. This is permitted through their part 135 OS.

HAI and AAMS state that presently, the FAA, through these OS, issues approvals to conduct terminal IFR operations without weather observation facilities on the immediate site. Additionally, provisions exist which allow a pilot operating in certain areas, to expand the service area report from one station to include a block of air space 60 miles long by 80 miles wide. However, these procedures

still do not provide enough flexibility to ensure the safest operations possible for the EMS industry.

The petitioners state that during the last 34 years, the NWS has upgraded and implemented new equipment as new technologies have emerged. The weather community has gone from visual observations to radar surveillance, computer enhancement, computer gathering and satellite observations. The petitioners state that the FAA has also taken advantage of technology innovations, as evidenced by reducing the number of Flight Service Stations and weather reporting facilities around the country. The installation of Automated Weather Observation Station (AWOS/ASOS) systems, though good when available, cannot possibly provide coverage to every site. The petitioners state that Remote Flight Service Stations without windows, that rely totally on computers and satellites, do nothing to alleviate the need for on-site weather reporting.

HAI and AAMS state that the method of collection of weather information and weather forecasting has improved dramatically, but changes to operational procedures have not been implemented to take advantage of these improvements. To enhance the safety of IFR operations, particularly as it relates to EMS necessitates that operating procedures change to keep pace with system improvements.

The petitioners state that the proposed exemption request does not represent the seeking of a sanction on by the FAA for a competitive edge. It represents an attempt to extend medical services to areas that are poorly served using well considered concepts which the current rules do not allow. The affected flights would be made to outlying hospitals or rural areas that lack the level of medical care which can be realized at the hospitals operating helicopter air ambulance services.

The petitioners state that the FAA's study, Rotorcraft Low Altitude IFR Benefit/Cost Analysis: Conclusions and Recommendations, published October 1993, states:

"Effective EMS operations require that IAP capabilities are available at both the hospital where the patient is picked up and the hospital where the patient is delivered... Hospital heliports provide tremendous benefits to the nation in terms of

providing EMS helicopters with rapid access to hospitals. Using these heliports, helicopter EMS services save lives and reduce morbidity (faster recovery from injury, decrease in long term disability, etc.) These benefits could be increased through the installation of non-precision IAPs at hospital heliports. This analysis indicates that, at many hospitals heliports, the benefit/cost ratio of a non-precision approach is very large. In a number of cases it is larger than 1,000 to 1."

The study also cites the crux of the problem with IFR operations to these facilities, "Currently, a major constraint to the mission is the lack of available weather information. This is particularly true in rural areas where weather observations are often lacking."

HAI and AAMS state that denying the utilization of helicopters to their fullest capabilities is killing people, both by forcing EMS operators to operate under VFR in marginal conditions and by denying safe IFR operations to move patients who truly warrant rapid transport. On January 8, 1993, a letter from the Assistant Secretary for Policy and International Affairs, Office of the Secretary of Transportation titled "Treatment of Value of Life and Injuries in Preparing Economic Evaluations" placed the current figure at \$2.5 million for FAA benefit/cost purposes. The petitioners state that at this rate, we are paying dearly for our limitations. The emergence of a national health plan with managed health care will also attempt to equalize services for rural Americans as well as those who live in close proximity to a major medical center.

HAI and AAMS note that there have been previous petitions for exemption that proposed similar relief to that now requested and that these petitions were denied. The petitioners state that the major difficulty cited consistently in the FAA denials of exemption refer to a NTSB study based on data collected between 1964 and 1975. The petitioners state that this study reflects no helicopter IFR data. HAI and AAMS state that before considering this exemption, it should be urged that criteria for judgment be based on appropriate helicopter operations data.

Rotorcraft Low Altitude IFR Benefit/Cost Analysis:  
Conclusions and Recommendations states:

"Rotorcraft have different flight capabilities and limitations than fixed-wing aircraft and often perform unique missions."

"When Rotorcraft conduct IFR approaches and departures, they have significantly more capability than fixed-wing aircraft."

"Rotorcraft approaches to heliports/vertiports free approach slots to a runway."

HAI and AAMS state that as we approach the dawn of the 21st century IFR helicopter operations are being reconsidered and reshaped. Projects like the Extremely Low Visibility IFR Rotorcraft Approach (ELVIRA) workshop are drawing the lines to this fixture. Considerations such as maximum speed limitations on approaches for helicopters of perhaps 70 knots indicated air speed (KIAS), might give the operators an even wider margin of safety. The petitioners state that first and foremost, we must enable EMS Helicopters to utilize the capabilities that have not been fully realized.

Finally, the petitioners state that the National Transportation Safety Board's (NTSB) Safety Study on Commercial Emergency EMS Helicopter Operations recommends the following: Review Title 14, Code of Federal Regulations Part 135, Instrument Flight Rules (IFR): Alternate Airport Requirements, to determine the feasibility of allowing the helicopter pilot, without designating an alternate airport, to file IFR with a lower destination weather forecast than is currently specified (Class II, Priority Action) (A-88-5).

A summary of the petition was published in the Federal Register on August 22, 1995, (60 FR 43643) and no comments were received.

The FAA's analysis/summary is as follows:

The FAA understands the problems that are faced by EMS operators, has fully evaluated the supportive information presented by HAI and AAMS concerning whether the proposed exemption provides a level of

safety that is equivalent to the affected regulations, and whether the proposed exemption is in the public interest, and has also considered all of the other material submitted by the petitioners.

The FAA notes that the petitioners have proposed two distinct areas of relief. The first is to permit IFR departures at airports and or heliports that do not have an approved weather reporting source. The second is to permit IFR IAPs at airports and or heliports that do not have an approved weather reporting source. The FAA has evaluated each proposal in regard to the level of safety that it would provide.

The FAA finds that a partial grant of exemption, from § 135.213 (a), to permit only IFR departures at airports and or heliports that do not have an approved weather reporting source, subject to certain conditions and limitations, would not reduce the level of safety that is currently provided.

Similarly, the FAA finds that the petitioners have failed to show how an equivalent level of safety would be maintained under an exemption that would permit performing IFR IAPs at airports and or heliports that do not have an approved weather reporting source.

EMS operators are not prohibited from operating under part 91 to an airport where a patient will be picked up. Any person, including EMS operators, conducting operations under part 91 may perform an IAP, under IFR to an airport that is not served with an approved weather source. Thus, it is possible for EMS operators to find themselves in the situation in which they are located at an airport, with a patient on board, and are then not be permitted to depart that airport under VFR because the airport does not have an approved weather reporting source.

In such a case, if the pilot determines that the current weather at the airport is at least equal to VFR minimums, the flight may depart from that airport under VFR and either continue flight under VFR or attempt to obtain an IFR clearance enroute.

The FAA finds that because it is safe to depart an airport under VFR in weather conditions that are at

least equal to VFR minimums, that same VMC weather is sufficient to permit a departure from that same airport under IFR and to conduct the flight under IFR. Thus, subject to the conditions and limitations of this exemption, EMS operators may depart an airport under part 135 in VMC under IFR and conduct the flight under IFR.

In contrast to IFR departures, the FAA finds that the petitioners have failed to show how their proposed exemption from § 135.213 (b) which requires that weather observations must be taken at the airport where the IFR operation is conducted, and from § 135.219 which requires that weather conditions at the ETA at the next airport will be at or above IFR landing minimums, and from §§ 135.225(a)(1) and (2) which require that no IAP may be begun unless there is an approved weather reporting source which indicates that the weather conditions are at or above IFR landing minimums, would provide a level of safety that is equivalent to the affected regulations.

The petitioners have proposed to conduct look-see IFR IAPs as allowed under part 91. This type of operation does not provide a level of safety that is equivalent to the standards for part 135 operations. This is especially so when compared to receiving the latest weather report issued by an approved weather reporting source. These reports indicate whether weather conditions are at or above authorized IFR landing minimums for that airport. They also provide the latest information on any weather hazards in the area.

Public Law 103-272, Codification of Certain U.S. Transportation Laws as Title 49, United States Code, which replaced the Federal Aviation Act of 1958, as amended, states that in providing standards, rules and regulations and issuing certificates, the FAA shall give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest. It would be inconsistent and clearly imprudent for the FAA to allow part 135 operators to initiate IAPs and permit them to look-see, without those operators having the latest reported weather for the airport of intended landing.

The FAA notes that while look-see IAP are prohibited under part 135, they are not prohibited under part 91. On April 6, 1982, the NTSB issued recommendation A-83-30 which proposed that the FAA take action to amend § 91.116 to provide that takeoff cannot be initiated or an IAP continued past the final approach fix or into the final approach segment of an IAP unless the latest weather report for that airport issued by the NWS, a source approved by the NWS, or a source approved by the Administrator reports the visibility to be equal to or greater than the visibility minimums prescribed for that procedure. In its recommendation, the NTSB cited 19 fatal accidents where the pilot descended below minimums during the IAP when the weather was below minimums. Six of these flights involved air taxis that were evidently operating in violation of § 135.225. The other 13 accidents occurred during part 91 operations. In 11 of these accidents, the FAA review and analysis revealed extenuating and invalidating circumstances. Only the two remaining accidents involved controlled collisions with the ground during IAPs where the reported weather was below the IFR approach minimums. Accordingly, the FAA found that it was unable to justify amending part 91 as recommended by the NTSB, i.e. prohibiting look-see IAPs under Part 91.

In evaluating HAI's and AAMS's petitions for an exemption from §§ 135.225(f) and (g), the FAA finds that an exemption that would authorize IFR departures in weather conditions that are below those specified in part 91, part 97, or the certificate holder's OS, would not provide a level of safety that is equivalent to that provided by the FAR. Further, the FAA finds that IFR departures that are conducted in weather conditions that are at least equal to VFR minimums, under this exemption, do not require an exemption from these sections, if the actual weather conditions are determined to be at least equal to VFR weather minimums, by the PIC as specified in § 135.213(a).

In addition to the level of safety that would be provided, the FAA has also evaluated HAI's and AAMS's proposals to see if they would be in the public interest. The FAA finds that because HAI's and AAMS's proposal for an exemption from §§ 135.213(b), 135.219, 135.225(a)(1), (a)(2), (f), and (g) would not provide

a level of safety that is equivalent to the affected sections, an exemption from these sections would not be in the public interest.

The FAA finds that an exemption from § 135.213(a) that authorizes IFR departures at airports and or heliports that do not have an approved weather reporting source, only for a limited number of helicopter EMS flights, would be in the public interest.

The FAA finds that operations under an exemption would be in the public interest only for those flights on which there is a patient who has a medical condition that requires, and is appropriate for, transportation by EMS helicopter. The FAA finds that each patient who would be transported will have previously been evaluated by a medical provider. This may range from specialist medical doctors capable of the most complex medical procedures to emergency medical technicians who are authorized to provide first aid. In every case, before the EMS helicopter is summoned to provide transportation, an evaluation of the patient's condition will have been made and a decision reached that the patient has a medical condition that requires, and is appropriate for, transportation by EMS helicopter. Each patient may be different and specific medical guidelines are made by the medical providers.

This exemption is thus limited to flights on which there is a patient who has a medical condition that requires, and is appropriate for, transportation by EMS helicopter. Similarly the FAA finds that an exemption that would authorize the transportation of patients who do not have such a condition would not be in the public interest.

Finally, the FAA finds that the affected EMS operators, performing the limited number of flights that would be conducted under this exemption, who are departing under IFR from airports and or heliports that do not have an approved weather reporting source, transporting only patients who have a medical condition that requires, and who is appropriate for, transportation by EMS helicopter are unique from the general class of regulated person who conducts operations under part 135. Other types of operators



and or operations would not be similarly situated. The FAA also finds that the relief from the affected sections to any further extent would constitute relief that would be appropriate to the general rulemaking process rather than to an exemption. Similarly, the FAA finds that relief under this exemption be limited to part 135 helicopter EMS operators who are members of both the HAI and AAMS. Similarly situated part 135 helicopter EMS operators may petition the FAA for similar relief under this exemption.

In consideration of the foregoing, I find that a partial grant of exemption would be in the public interest. Therefore, pursuant to the authority contained in 49 United States Code, Sections 40113 and 44701, formerly Sections 313(a) and 601(c) of the Federal Aviation Act of 1958, as amended, part 135 certificate holders conducting helicopter emergency medical service operations, who are members of both the Helicopter Association International and the Association of Air Medical Services, are granted an exemption from Section 135.213(a) of Title 14, Code of Federal Aviation Regulations to the limited extent necessary to permit helicopter EMS departures, under IFR in weather that is at or above VFR minimums, from airports or heliports at which a weather report is not available from the US National Weather Service, a source approved by the NWS, or a source approved by the Administrator. The petition for exemption from Sections 135.213(b), 135.219, 135.225(a) (1) and (2), 135.225(f), and 135.225(g) is hereby denied. This **exemption terminates on September 30, 1997**, unless sooner superseded or rescinded, and is subject to the following conditions and limitations:

1. Only departures are authorized under this exemption. IAPs are not authorized under this exemption.
2. Use of this exemption is authorized only at airports or heliports at which a weather report is not available from the NWS, a source approved by the NWS, or a source approved by the Administrator. IFR departures at such airports or heliports are authorized only after the PIC of the affected flight determines that the weather conditions at the departure airport or heliport are at or above VFR

minimums. This may be determined by the PIC's own observation or that of another person competent to supply appropriate observations.

At any airport or heliport at which there is a weather report from the NWS, a source approved by the NWS, or a source approved by the Administrator, that weather report will be the controlling weather report. Thus, this exemption does not give the PIC or anyone else the authority to substitute his or her opinion as to the weather conditions if the airport or heliport has a weather report from the NWS, a source approved by the NWS, or a source approved by the Administrator.

3. Departures under this exemption are authorized only for flights on which there is a patient who has a medical condition that requires, and is appropriate for, transportation by EMS helicopter. This medical determination will be made by the medical provider who has evaluated the patient, and must be made known to the pilot prior to departure. Departures are not authorized under this exemption for the transport of patients who do not require transportation by EMS helicopter, nor for the routine transport of patients, nor for any other type of transportation or operation.

4. Each pilot who conducts operations under this exemption must be:

- a) certificated to conduct the IFR operations permitted,
- b) trained in accordance with the certificate holders approved training program,
- c) qualified in accordance with qualification requirements of part 135, and
- d) current in all requirements to perform operations under IFR in the model of helicopter that is being utilized.

5. Each helicopter operated under this exemption must be fully equipped and certified to conduct IFR operations under part 135. Each helicopter operated under this exemption must be equipped with an approved and operable radar altimeter, and either an approved and operable weather radar or approved and operable lightening detection equipment.

6. Before conducting any operation under this exemption, each certificate holder must submit to, and have approved by the FAA Principal Operations Inspector assigned to the certificate holder, an amendment to the certificate holders approved training program. The amendment must include, as a minimum, the items proposed by HAI and AAMS on pages 4 and 5 of this exemption, under item no. 3., Ground School Course Curriculum.

/S/ Thomas C. Accardi  
Director, Flight Standards Service

Issued in Washington DC on September 29, 1995.

AFS-95-439-E

## **Exemption No. 6175B - Helicopter Association International**

September 30, 1999

Exemption No. 6175B  
Regulatory Docket No. 27491

Mr. Roy Resavage  
President  
Helicopter Association International  
1635 Prince Street  
Alexandria, VA 22314-2818

Dear Mr. Resavage:

This is in response to your May 17, 1999, letter petitioning the Federal Aviation Administration (FAA) on behalf of the Helicopter Association International (HAI) and the Association of Air Medical Services (AAMS) for an extension of Exemption No. 6175, as amended. That exemption from § 135.213(a) of Title 14, Code of Federal Regulations (14 CFR) permits part 135 certificate holders that conduct helicopter emergency medical service (EMS) operations and are members of both the HAI and the AAMS to conduct EMS departures under instrument flight rules in weather that is at or above visual flight rules minimums from airports or heliports at which a weather report is not available from the U.S. National Weather Service (NWS), a source approved by the NWS, or a source approved by the Administrator.

In your petition, you indicate that the conditions and reasons regarding public interest and safety, presented in the original petition upon which the exemption was granted, remain unchanged.

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested extension of the exemption would not set a precedent, and any delay in acting on this petition would be detrimental to the members of the HAI and the AAMS.

The FAA has determined that the justification for the issuance of Exemption No. 6175, as amended, remains valid with respect to this exemption.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator (14 CFR § 11.53), Exemption No. 6175, as amended, is hereby further amended by extending its September 30, 1999, termination date to September 30, 2001, unless sooner superseded or rescinded.

All other conditions and limitations of Exemption No. 6175, as amended, remain the same. This letter shall be attached to, and is a part of, Exemption No. 6175.

Sincerely,

/S/ L. Nicholas Lacey  
Director, Flight Standards Service

cc: Ms. Dawn Mancuso, Executive Director, AAMS

Certificate holding region: AEA-200, Flight Standards Service, Eastern Region.

**Exemption No. 5090 - Bankair, Inc.**

Exemption No. 5090

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, D.C. 20591

\* \* \* \* \*

\*

In the matter of the petition of \*

\*

BANKAIR, INC., \*

Regulatory Docket No. 22706

\*

for an exemption from \*

Section 135.225(e)(1) of the \*

Federal Aviation Regulations \*

\*

\* \* \* \* \*

**GRANT OF EXEMPTION**

By letter dated January 3, 1989, and subsequent telephone conversation on February 22, 1989, Ms. Jeanne D. Cook, Chief Pilot, Bankair, Inc. (Bankair), Columbia Metropolitan Airport, West Columbia, South Carolina 29169, petitioned for an exemption from Section 135.225(e)(1) of the Federal Aviation Regulations (FAR) to the extent necessary to allow petitioner's pilots to operate their aircraft from Myrtle Beach Air Force Base (MBAFB) and Beaufort Marine Corps Air Station (BMCAS) using takeoff visibility minimums, subject to the approval of the appropriate military authority, which are less than 1 mile and are equal to or greater than the landing visibility minimum established for these airfields.

Section of the FAR affected:

Section 135.225(e)(1) states, in pertinent part, that each pilot making an instrument flight rule (IFR) takeoff or approach and landing at a military or foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, no pilot may, at that airport, take off under IFR when the visibility is less than 1 mile.

The petitioner's supportive information is as follows:

The petitioner states that Bankair is a Part 135 operator under contract to transport highly time critical financial papers in support of the Federal Reserve System. This transportation is an integral part of many financial institutions' daily operation.

The petitioner states that it operates to and from two military bases, MBAFB and BMCAS, from which it holds a facility license for IFR operations. The delays caused by operating from these bases under Section 135.225(e)(1) are excessive since the petitioner may land with visibilities as low as 1/2 mile but cannot depart without 1 mile visibility. Adjacent airports are not suitable in that there are no airports with a weather observer as required for conducting Part 135 operations.

The petitioner's pilots have operated safely into both bases for years and are very familiar with their operations and adjacent terrain. Both air bases have runways in excess of 9,500 feet, level terrain, and no obstructions to flight. The petitioner also suggests that the lowest visibility allowed on the approach should be 1/2 statute mile and that these takeoffs should correspond to the approaches in use at that time. The petitioner states that an equivalent level of safety will be present as that provided by the rule from which exemption is sought. The Petitioner also states that granting this exemption is in the public interest because any delay in the Federal Reserve Banks receiving these financial papers burdens the public with a financial hardship in the cost of processing bank, credit union, and other deposits.

The Federal Aviation Administration's (FAA) analysis/summary is as follows:

The FAA has determined that because the public has been afforded the opportunity to comment on similar petitions in the past, good cause exists for waiving Federal Register publication and comment procedure. Therefore, the FAA has waived the requirement for publication and comment.

Section 91.116 prescribes civil airport takeoff rules and establishes standard takeoff minimums for aircraft operating under Part 135. Lower than standard departure minimums have existed for some time through operations specifications and in Part 97. These procedures have proved satisfactory for operation at civil airports over the years. The petitioners, through its request for exemption, is in fact requesting that the same criteria used for determining takeoff minimums at civilian airports be applied to takeoff minimums at MBAFB and BMCAS.

The criteria contained in the Terminal Instrument Procedures (TERPS) used for determining lower than standard departure minimums were officially adopted by the FAA, the U.S. Army, Navy, Air Force and the Coast Guard. They are applicable where the United States exercises jurisdiction over flight procedures for U.S. military and civilian airports. In addition, the same criteria may be used for development of procedures for use by U.S. military and civil air carriers at foreign airports.

The FAA concludes, after reviewing petitioner's request and the background material concerning adoption and satisfactory use of TERPS criteria at civilian airports, that

granting an exemption to Bankair would furnish a level of safety equivalent to that provided by the rule from which exemption is sought. The FAA has determined that a satisfactory level of safety has been attained by these carriers at civilian airports; therefore, it concludes that the same results will be achieved by operators at military bases that have procedures that are based on that same criteria.

The petitioner has established that this type of operation will be in the public interest.

Coordination between the U.S. Air Force and the U.S. Marine Corps has been accomplished and positive recommendations for both operations have been received.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in Sections 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), Bankair Inc., is granted an exemption from Section 135.225(e)(1) of the FAR to the extent necessary to permit Bankair's pilots to operate from MBAFB and BMCAS using takeoff visibility minimums which are less than 1 mile and are equal to or greater than the landing visibility minimums established for these airfields subject to the following conditions and limitations:

1. No Bankair pilot may take off unless visibility is 1/2 statute mile or greater or runway visual range is 2,400 feet or greater at MBAFB and BMCAS.
2. No Bankair pilot may take off at MBAFB and BMCAS unless existing landing visibility minimums corresponding to the appropriate instrument approach procedure and Bankair's operations specifications are available.
3. Bankair shall comply with provisions contained in appropriate U.S. Navy and U.S. Air Force regulations or manuals relating to use of these facilities by other than U.S. Department of Defense aircraft.
4. Bankair shall maintain a copy of this exemption on board the aircraft while exercising the privileges of this exemption.
5. Bankair shall obtain approval from its FAA certificate holding office prior to conducting operations under this exemption.

This exemption terminates on August 31, 1991, unless sooner superseded or rescinded.

/s/ Daniel C. Beaudette

Acting Director, Flight Standards Service

Issued in Washington, D.C. on August 18, 1989.



**Exemption No. 5050A - Bankair, Inc.**

May 13, 1991

Exemption No. 5090A  
Regulatory Docket No. 22706

Mrs. Nettie Dickerson  
Bankair Inc.  
2406 Edmund Road  
Columbia Metropolitan Airport  
West Columbia, SC 29169

Dear Mrs. Dickerson:

By an undated letter, received by the Federal Aviation Administration (FAA) on March 5, 1991, you petitioned for extension of the termination date of Exemption No. 5090. That exemption provides Bankair Inc. relief from Section 135.225(e)(1) of the Federal Aviation Regulations (FAR), and would otherwise terminate on August 31, 1991.

You state that the reasons for extension are identical to those presented in the original petition and there has been no change in Bankair's original supporting documentation used in justifying the previous grant of Exemption No. 5090.

A summary of your petition was published in the Federal Register on April 3, 1991 (56 FR 13690). No comments were received.

The FAA has determined the justification for granting Exemption No. 5090 remains valid with respect to this exemption.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in Sections 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), Exemption No. 5090 is amended by the extending its termination date to August 31, 1993, unless sooner superseded or rescinded. All conditions and limitations remain the same. This amendment shall be attached to and is a part of Exemption No. 5090.

Sincerely,

/s/ Thomas C. Accardi, Acting Director  
Flight Standards Service

AFS-91-200-E

**Exemption No. 5090B - Bankair, Inc.**

October 23, 1992

Exemption No. 5090B  
Regulatory Docket No. 22706

Ms. Jeanne D. Cook  
Chief Pilot  
Bankair, Inc.  
2406 Edmund Road  
West Columbia, SC 29169

Dear Ms. Cook:

By letter dated July 22, 1992, you petitioned the Federal Aviation Administration (FAA) for an amendment to Exemption No. 5090, as amended, from § 135.225(e)(1) of the Federal Aviation Regulations (FAR) which was issued to Bankair, Inc. on May 13, 1991.

Your request to extend the termination date of the exemption and to add 28 United States military bases to the list of bases at which Exemption No. 5090, as amended, is applicable.

You state that the reasons for the amendment are identical to those presented in Bankair, Inc.'s original petition.

A summary of Bankair's petition was published in the Federal Register on September 22, 1992 (57 FR 43770). No comments were received.

The FAA finds that Bankair, Inc. has operated successfully under Exemption No. 5090, as amended, and that the proposed amendment would continue to be in the public interest, and would continue to provide a level of safety equivalent to the regulation.

Further, the FAA amends this exemption to any United States military base that has adopted the Terminal Instrument Procedures.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in Sections 313(a) and 601(c) of the Federal Aviation Act of 1958, as amended, delegated to me by the Administrator (14 CFR 11.53), Exemption No. 5090, as amended, is further amended by extending its termination date to October 31, 1994, unless sooner superseded or rescinded. Exemption No. 5090, as amended is also amended to permit its use by Bankair, Inc. at any United States military base that has adopted the criteria contained in the Terminal Instrument Procedures used for determining lower than standard departure minimums, in order to permit Bankair, Inc's pilots to use takeoff visibility minimums which are less than 1 mile

and are equal to or greater than the landing visibility minimums established for those airfields subject to the following conditions and limitations:

1. No Bankair, Inc. pilot may take off unless visibility is 1/2 statute mile or greater or runway visual range is 2,400 feet or greater at the departure base.
2. No Bankair, Inc. pilot may take off at any base, under this exemption, unless the existing landing visibility minimums corresponding to the appropriate instrument approach procedure and Bankair, Inc's operations specifications are available.
3. Bankair, Inc. shall comply with provisions contained in appropriate U.S. Navy and U.S. Air Force regulations or manuals relating to use of these facilities by other than U.S. Department of Defense aircraft.
4. Bankair, Inc. shall maintain a copy of this exemption on board the aircraft while exercising the privileges of this exemption.
5. Bankair, Inc. shall obtain approval from its FAA certificate holding district office prior to conducting operations under this amended exemption.

Sincerely,

/s/

William J. White

Acting Director, Flight Standards Service

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| <b>REPORT DOCUMENTATION PAGE</b>   |   |  | Form Approved<br>OMB No. 0704-0188   |  |
| Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188), Washington, DC 20503.   |   |  |  |  |
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| <b>6. AUTHOR(S)</b><br>Louis J. Williams, Michael L. Heck, and Malcolm A. Burgess  |   |  |  |  |
| <b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b><br>RTI International<br>One Enterprise Parkway, Suite 310<br>Hampton, VA 23666-1564  |   |  | <b>8. PERFORMING ORGANIZATION<br/>REPORT NUMBER</b><br><br>7473-037                  |  |
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| <b>13. ABSTRACT</b> (Maximum 200 words)<br>The objective of this study was to determine the criteria commonly used by the FAA to grant waivers, exemptions, or deviations to FAR Part 135, Sections 135.213, 135.219, and 135.225 and the potential impact on Flight Information Services Data Link (FISDL) implementation. These aviation regulations address the requirements for the use of weather reports or forecasts when conducting operations under FAR Part 135. In this study a literature search was conducted to obtain historical records of requests for relief from the 3 FAR sections under consideration. The exemption request records were then analyzed in order to determine the reasons given by the FAA for either granting or denying the request. In addition, FAA personnel and Part 135 operators were interviewed to determine the procedures used for satisfying the requirements of the 3 FAR sections. |   |  |  |  |
| <b>14. SUBJECT TERMS</b><br>Aviation weather, Data Link Weather, Weather Decision Making   |   |  | <b>15. NUMBER OF PAGES</b><br>52   |  |
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